

# SENATE BILL REPORT

## ESB 6183

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As Passed Senate, April 22, 2009

**Title:** An act relating to early deportation of illegal alien offenders.

**Brief Description:** Changing the provisions relating to the early deportation of illegal alien offenders.

**Sponsors:** Senator Regala.

**Brief History:**

**Committee Activity:** Ways & Means: 4/18/09 [DP, DNP].

Passed Senate: 4/22/09, 43-6.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley, Hewitt, Hobbs, Honeyford, Keiser, Kline, McDermott, Oemig, Parlette, Pflug, Pridemore, Regala, Rockefeller and Schoesler.

**Minority Report:** Do not pass.

Signed by Senator Carrell.

**Staff:** Richard Ramsey (786-7412)

**Background:** Any alien offender who has been sentenced under the Sentencing Reform Act of 1981 and who has been found by the U.S. Attorney General to be subject to a final order of deportation or exclusion may be placed on conditional release status. If placed on conditional release status, the offender is transferred to the custody of the Immigration and Customs Enforcement (ICE) division of the U.S. Department of Homeland Security.

An offender may not be released on a conditional release status unless the Secretary of the Department of Corrections finds that such a release is in the best interest of the state. Conditional release status may only be allowed with the approval of the sentencing court and the prosecuting attorney of the county of conviction.

If an offender is serving a sentence for a violent offense, sex offense, or for an offense that is a crime against a person, that offender may not be placed on conditional release status. Once

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an offender is turned over to the ICE, the Department of Corrections (DOC) must issue a warrant for the offender's arrest within the United States which will remain in effect until the expiration of the conditional release. The unserved portion of an offender's term of confinement is tolled when the offender is released to the ICE. If the offender is arrested, the DOC must seek extradition as necessary and the offender must be returned to the DOC for the completion of the unserved portion of his or her term of total confinement.

**Summary of Engrossed Bill:** The placement of an offender on conditional release status to ICE no longer requires the approval of the sentencing court and the prosecuting attorney.

An offender who is serving a sentence for an offense that is a crime against a person, but is not a violent or sex offender may be placed on conditional release status. If an offender is arrested after being placed on conditional release status, the DOC may, but is not required to, seek extradition to have the offender returned to the DOC.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This is a good bill in good economic times or bad. It does not change the process, only makes it happen earlier.

OTHER: Immigration law is very complex and we need to insure that due process protections are in place. There may be an initial crush of people subject to release to ICE for deportation and the potential exists that the due process may not be followed. This issue could be addressed if releases from DOC would be staggered or if additional legal staff could be provided to assist released offenders with the ICE deportation process.

**Persons Testifying:** PRO: Tom McBride, Washington Association of Prosecuting Attorneys; Don Pierce, Washington Association of Sheriffs and Police Chiefs.

OTHER: Tony Lee, Asian Pacific Islander Coalition; Nick Federici, One America; Shankar Narayan, American Civil Liberties Union.